

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

Jonathan Paul Catlin  
Plaintiff

vs.

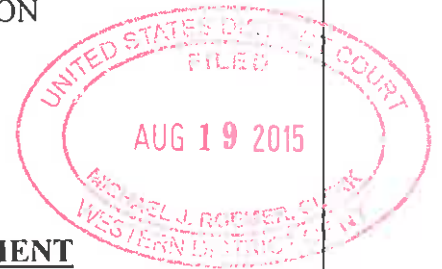
LTD Financial Services, LP  
Defendant

CASE NO. 15 cv 6214

JUDGE: Hon. David G. Larimer

MAGISTRATE JUDGE:  
Hon. Marion W. Payson

NOTICE OF MOTION

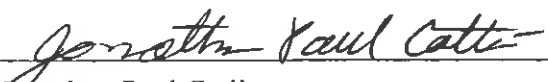


**NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE, that the undersigned will bring a motion for the Court to render partial summary judgment in the plaintiff's favor on the above-captioned case, before this Court on a date and time which will be provided by the Court later.

Dated: 8/17/15

Respectfully Submitted

  
Jonathan Paul Catlin  
c/o PO Box 621  
Naples, New York  
cell: 208-627-3950  
e-mail: myfriendstenthousand@gmail.com

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

Jonathan Paul Catlin

Plaintiff

vs.

LTD Financial Services, LP

Defendant

CASE NO. 15 cv 6214

JUDGE: Hon. David G. Larimer

MAGISTRATE JUDGE:

Hon. Marion W. Payson

**PLAINTIFF'S STATEMENT OF UNDISPUTED FACTS**  
**SUPPORTING SUMMARY JUDGMENT**

Plaintiff, Jonathan Paul Catlin, provides the following statement of undisputed facts in support of his motion for partial summary judgment.

1. Plaintiff has made no agreement or contract with defendant at any time. Unanswered Admissions REQUEST #3, Plaintiff's First Set of Discovery Requests to Defendant LTD Financial Services, LP, page 18, line 24.

2. The defendant has no contract with plaintiff. Unanswered Admissions REQUEST #13, Plaintiff's First Set of Discovery Requests to Defendant LTD Financial Services, LP. (Docket document #11) page 19, line 32.

3. Plaintiff did not give defendant express consent to call plaintiff prior to plaintiff's notification of pending lawsuit. Unanswered Admissions REQUEST #4, Plaintiff's First Set of Discovery Requests to Defendant LTD Financial Services, LP. (Docket document #11) page 18, lines 28-29.

4. Defendant did not have a lawful reason to call or contact plaintiff prior to the plaintiff's notification of pending lawsuit. Unanswered Admissions REQUEST #5, Plaintiff's First Set of

1 Discovery Requests to Defendant LTD Financial Services, LP, (Docket document #11) page 18,  
2 lines 33-34.

3  
4 5. Phone number 585-348-0991 is not a landline and was not a landline at any time after  
5 assignment to plaintiff. Unanswered Admissions REQUESTS #6 and 7, Plaintiff's First Set of  
6 Discovery Requests to Defendant LTD Financial Services, LP, (Docket document #11) page 19,  
7 lines 3-7.

8  
9 6. Defendant called 585-348-0991 using an autodialer. Unanswered Admissions REQUEST  
10 #8, Plaintiff's First Set of Discovery Requests to Defendant LTD Financial Services, LP, (Docket  
11 document #11) page 19, line 11.

12  
13 7. Defendant called plaintiff's cell phone at 585-348-0991 four times. Jonathan Paul Catlin  
14 Affidavit March 24, 2015, p. 1, paragraph 3 and the attached photograph (Included on the record  
15 as Exhibit A of plaintiff's original complaint, Docket document #1). Defendant's Rule 26 initial  
16 mandatory disclosures, Exhibit A, p. 2, which was untimely served by e-mail to plaintiff on  
17 August 4, 2015. Since the defendant failed to file its initial mandatory disclosures on the court  
18 record, the relevant page is included in Exhibit D of the accompanying memorandum.

19  
20 7. Defendant admits that using an autodialer to call a wireless number is a violation of the  
21 Telephone Consumer Protection Act (47 U.S.C. §227). Unanswered Admissions REQUEST #  
22 12, Plaintiff's First Set of Discovery Requests to Defendant LTD Financial Services, LP, (Docket  
23 document #11) page 19, line 28.

24  
25 Dated: 8/17/15

26  
27 Respectfully Submitted,

28  
29   
30 Jonathan Paul Catlin

31 Plaintiff Pro Se

32 Post Office Box 621

33 Naples, New York 14512

34 Cell: (208) 627-3950

35 Email: myfriendstenthousand@gmail.com

**CERTIFICATE OF SERVICE**

I certify that on this 17th day of August, 2015, a true and correct copy of the foregoing Plaintiff's Statement of Facts Supporting Summary Judgment, is served by electronic mail on Arthur Sanders, counsel for the defense, at the following e-mail addresses:  
asanders@arthursanderslaw.com and asanders@bn-lawyers.com.

  
Jonathan Paul Catlin  
Plaintiff *Pro Se*  
Post Office Box 621  
Naples, New York 14512  
Cell: (208) 627-3950  
Email: myfriendstenthousand@gmail.com

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

Jonathan Paul Catlin

Plaintiff

vs.

LTD Financial Services, LP

Defendant

CASE NO. 15 cv 6214

JUDGE: Hon. David G. Larimer

MAGISTRATE JUDGE:

Hon. Marion W. Payson

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT UNDER FRCP 56**

Plaintiff, Jonathan Paul Catlin, asks the Court to render partial summary judgment against Defendant, LTD Financial Services, LP, as authorized by Federal Rule of Civil Procedure 56.

**A. INTRODUCTION**

1. Plaintiff is Jonathan Paul Catlin; defendant is LTD Financial Services, LP.
2. On April 13, 2015, plaintiff sued defendant for violations of 47 U.S.C. §227.
3. On May 19, 2015, defendant filed its answer to plaintiff's complaint (Document #4).
4. On July 7, 2015, plaintiff served Plaintiff's First Round of Discovery Requests on defendant (Document #11). Included on pages 18-19 are requests for Admission under Federal Rule of Civil Procedure 36. Defendant failed to answer the requests for admission within the specified 30 day time period.

1       5. Plaintiff files this motion for partial summary judgment on his claim for statutory  
2 damages for violations of the Telephone Consumer Protection Act, 47 U.S.C. §227. Summary  
3 judgment should be granted in this case because the summary-judgment evidence establishes all  
4 elements of plaintiff's claim as a matter of law.

5  
6                                   **B. STATEMENT OF FACTS**

7  
8       6. A statement of undisputed facts accompanies this motion, as required by Local Rule 56.  
9

10                                  **C. ARGUMENT**

11  
12       7. Summary judgment is proper in a case in which there is no genuine dispute of material  
13 fact. Fed. R. Civ. P. 56(a); Scott v. Harris, 550 U.S. 372, 380 (2007); Celotex Corp. v. Catrett,  
14 477 U.S. 317, 322 (1986). A plaintiff moving for summary judgment satisfies his burden by  
15 submitting summary-judgment proof that establishes all elements of his claim as a matter of law.  
16 San Pedro v. United States, 79 F.3d 1065, 1068 (11th Cir. 1996). Plaintiff must show that no  
17 reasonable trier of fact could find other than for plaintiff. Calderone v. United States, 799 F.2d  
18 254, 259 (6th Cir. 1986).  
19

20       8. To prevail on his claim that defendant violated the Telephone Consumer Protection Act  
21 (47 U.S.C. §227) with respect to plaintiff, plaintiff must prove the following elements as a  
22 matter of law: defendant used an autodialer to call plaintiff on his cellular phone a specific  
23 number of times and defendant had not received plaintiff's express consent to be called on his  
24 cell phone. Because there are no genuine disputes of material fact on any element of defendant's  
25 violations of the Telephone Consumer Protection Act (47 U.S.C. §227) with respect to plaintiff,  
26 plaintiff is entitled to summary judgment as a matter of law.  
27

28                                  **D. SUMMARY-JUDGMENT EVIDENCE**

29  
30       9. In support of his motion, plaintiff includes evidence in the attached Exhibit D, which is  
31 incorporated by reference into the motion. Evidence already on the official court record is  
32 incorporated by referencing the corresponding docket document number. The motion for  
33 summary judgment is based on the following evidence:

34               a. Admissions. Defendant's admissions numbers 3-8, 12, and 13 (Docket  
35 document #11, p. 18-19) establish that defendant had no consent, implied or express, from

1 plaintiff to call plaintiff; defendant called plaintiff at 585-348-0991 using an autodialer in  
2 violation of the TCPA; and plaintiff's number 585-348-0991 is not and was not a landline since  
3 being assigned to plaintiff.

4 b. Other exhibits. Plaintiff's affidavit and picture of his cell phone screen, attached to  
5 plaintiff's original complaint as Exhibit A (Docket document #1), establishes that defendant  
6 called plaintiff's cell phone four times. Defendant's Rule 26 initial disclosure, which was  
7 untimely served by e-mail to plaintiff, confirms in its Exhibit A that defendant called plaintiff's  
8 cell number of 585-348-0991 four times (the relevant page is attached in Exhibit D).

#### 9 10 E. FILING FEES AND COSTS

11  
12 10. The plaintiff is not seeking the payment of attorney fees, but respectfully requests the  
13 court to award filing fees and other documented costs of this suit in the amount of \$450.00. See  
14 Exhibit E for photocopies of receipts.


15  
16 11. The plaintiff also respectfully requests that the court consider awarding his reasonable  
17 cost of time to pursue the suit, in the amount of \$700.00. Plaintiff's affidavit of his customary  
18 minimum wage in his usual trades and of his hours spent on this suit is attached as Exhibit F,  
19 along with a log sheet detailing the time spent pursuing this suit.

#### 20 21 C. CONCLUSION

22  
23 11. The material facts of defendant's violations of the Telephone Consumer Protection Act  
24 (47 U.S.C. §227), as alleged by the plaintiff, have been admitted and/or uncontested by the  
25 defendant and therefore cannot be in dispute. For this reason, plaintiff asks the Court to grant this  
26 motion and render a partial summary judgment in plaintiff's favor, awarding statutory damages  
27 and leaving actual and punitive damages to be awarded by the jury.

28  
29 Dated: 8/17/15

30  
31 Respectfully Submitted

32  
33   
34 Jonathan Paul Catlin  
35

c/o PO Box 621  
Naples, New York  
cell: 208-627-3950  
e-mail: myfriendstenthousand@gmail.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## Exhibit D

STATE OF NEW YORK )  
 ) ss  
 COUNTY OF Ontario )

AFFIDAVIT OF JONATHAN PAUL CATLIN

Before me, the undersigned notary, on this day personally appeared Jonathan Paul Catlin, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

1. "My name is Jonathan Paul Catlin. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. On August 4, 2015, LTD Financial Services, L.P. through it's attorney, Arthur Sanders, Esq., untimely served the affiant with Rule 26 Initial Mandatory Disclosures for federal case number 15-cv-6214 by email.

3. The attached page is a true and correct copy of page 2 of Exhibit A of the aforementioned Disclosures as I received it."

Jonathan Paul Catlin  
 Jonathan Paul Catlin

8/17/15  
 Date

State of New York  
 County of Ontario

Subscribed and sworn to (or affirmed) before me on this 17 day of August, 2015 by Jonathan Paul Catlin, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Vicky L. Martin (Seal)  
 Notary Public

VICKY L. MARTIN  
 Notary Public, State of New York  
 Ontario County  
 My Commission Expires 8/1/19  
 Reg. # 01MA6245427

04/03/14  
14 12:48JTB FIN SVCS VR2000 (0000)  
ACCOUNT INFORMATIONPAGE 2  
SURP340  
TIFFANIE20

TRANSACTIONS ACCOUNT NUMBER: 000 XXXXXXXXXXXXXXX4919 REFERENCE NUMBER: 019896569

LETTER CODE DATE DATE SENT DATE  
01 20140101 20140101

ACCOUNT INFORMATION ACCOUNT NUMBER: 000 XXXXXXXXXXXXXXX4919 REFERENCE NUMBER: 019896569

DATE	TIME	PLACE	WHO	COMMENT	COLLECTOR	STATUS
2014-01-01	9:14:28	*	*	NEW IMAGE ON FILE. PLEASE REVIEW		
2014-01-01	9:16:14	*	*	NEW IMAGE ON FILE. PLEASE REVIEW		
2014-01-06	11:13:56			Trigger: account monitoring removed		
2014-01-06	15:21:54	*	*	NEW IMAGE ON FILE. PLEASE REVIEW		
2014-02-27	7:58:14			A/R entered H.A.M.N	11914	
2014-02-27	7:58:17			H 5853480991 dialed	11914	
2014-02-27	23:17:52			Trigger: account being monitored by vendor		
2014-02-24	19:07:23			A/R entered O.A.M.N	11925	
2014-02-24	19:07:41	G	O	pl vm del	11925	215
2014-02-15	9:17:12			A/R entered O.N.O.A	11928	
2014-02-15	9:17:19	H	O	no del	11928	215
2014-02-08	10:44:12			A/R entered O.A.M.N	11928	
2014-02-08	10:44:23	O	C	pl vm del	11928	215
2014-02-06	10:13:44			A/R entered H.A.M.N	11928	
2014-02-06	10:13:44			H 5853480991 dialed	11928	
2014-02-06	15:20:26	H		COMPLETED REQUEST 1555 BY 11925 BY WILLIAM W	11928	215
2014-02-05	14:00:19			A/R entered H.N.O.A	11921	
2014-02-05	14:01:09			H 5853480991 dialed	11921	
2014-02-05	14:01:18	H	O	no del	11921	100
2014-01-29	14:01:18			*** No Reply / No Info received ***		
2014-01-29	15:02			*** TRANS UNION LOCATION INFO REQUESTED *****	000	
2014-01-29	15:02			*** LEXIS NEXIS INFORMATION REQUESTED ***	000	
2014-01-29	10:42:44			*** LEXIS NEXIS INFORMATION RETURNED ***		
2014-01-29	10:42:44			*** CBCInnovis INFORMATION REQUESTED *****	000	
2014-01-29	14:16:26			A/R entered H.N.O.A	11922	
2014-01-29	14:16:17			H 5853480991 dialed	11922	
2014-01-29	14:17:19	H	O	no answer	11922	100
2014-01-29	23:15:33	O	O	FIRST LETTER SENT AUTOMATICALLY	15555	
2014-01-28	16:00:02			***** Solicitor RFP and EEO Information Requested *****		

ACCOUNT INFORMATION ACCOUNT NUMBER: 000 XXXXXXXXXXXXXXX4919 REFERENCE NUMBER: 019896569

Y 00000000 20140128 Y  
20140129 20140227  
20140211 20140106 CNL  
4249  
02/17/2013  
ON ENDORSEMENT DATE: JUDGMENT AMOUNT: \$500,000.00  
NT OMC 20131004 0915 A STAT ACCT FOR CIVILIAN BATTAL CHURCH  
NT OMC 20140008 SE ACCT WDR  
NT OMC 20140103 \*\*\*SUMMARY\*\*\* ACTION STATUS TWO 1 1000000 0  
NT OMC 20131013 REARER 0 0000  
NT OMC 20131013 \*\*\*SUMMARY\*\*\* ACTION ENTRY 1 1000000 0

Exhibit E

Court Name: US District Court - NY Weste  
Division: 6  
Receipt Number: ROC007884  
Cashier ID: Rjfolwe  
Transaction Date: 04/13/2015  
Payer Name: JONATHAN CATLIN

CIVIL FILING FEE  
For: JONATHAN CATLIN  
Case/Party: D-NYW-6-15-CV-006214-001  
Amount: \$400.00

CHECK CONVERSION  
Check/Money Order Num: 22710178000  
Amt Tendered: \$400.00

Total Due: \$400.00  
Total Tendered: \$400.00  
Change Amt: \$0.00

CIVIL FILING FEE FROM JONATHAN  
CATLIN, PO BOX 621, NAPLES, NY  
14512 RE 15-CV-6214.

**NOTICE:**

Payment by check will result in a  
same-time electronic fund transfer  
(EFT) from your account. Funds may  
be withdrawn within 24 hours. If  
there are insufficient funds, we  
will impose a \$53.00 fee to be  
collected by EFT.



# Sparre Process Serving

SPARRE PROCESS

April 27, 2015

To: Cherity

[myfriendstenthousand@gmail.com](mailto:myfriendstenthousand@gmail.com)

Invoice #544716

We appreciate your business. This invoice is payable within 30 days.

Thank you.

Custom Amount	\$50.00
---------------	---------

<b>Subtotal</b>	<b>\$50.00</b>
-----------------	----------------

<b>Total</b>	<b>\$50.00</b>
--------------	----------------

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

## Exhibit F

STATE OF NEW YORK )  
 ) ss  
 COUNTY OF Ontario )

AFFIDAVIT OF JONATHAN PAUL CATLIN

Before me, the undersigned notary, on this day personally appeared Jonathan Paul Catlin, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

1. "My name is Jonathan Paul Catlin. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

2. Because I have not been represented by an attorney for federal case no. 6:15-cv-6214, I have been required to put my own time, which might otherwise have been spent working for compensation, into preparing and filing the suit and related correspondence and documents for case no. 6:15-cv-6214.

3. To date, I have invested 28 hours in preparations and filings for this case.

4. My customary minimum wage when working in my usual crafts is twenty-five dollars per hour (\$25/hr).

5. The attached time sheet is an accurate reflection of my time investment in the aforementioned case, to the best of my knowledge."

Jonathan Paul Catlin  
 Jonathan Paul Catlin

8/17/15  
 Date

State of New York  
 County of Ontario

Subscribed and sworn to (or affirmed) before me on this 17 day of August, 2015 by Jonathan Paul Catlin, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Vicky L. Martin (Seal)  
 Notary Public

VICKY L. MARTIN  
 Notary Public, State of New York  
 Ontario County  
 My Commission Expires 8/1/19

Jonathan Paul Catlin's Time Sheet for Catlin v. LTD Financial Services, LP.  
Case no. 6:15cv06214

Date	Project	Time	Cost
2/27/2015	Data logging and documentation	0.5	\$12.50
3/11/2015	Data analysis and research	0.5	\$12.50
3/19/2015	Drafting complaint and notice of pending suit	3	\$75.00
3/20/2015	Final draft complaint and notice of pending suit	1	\$25.00
3/24/2015	notorizing affidavit and mailing notice of pending suit	1	\$25.00
3/30/2015	Documenting delivery confirmation for notice	0.25	\$6.25
4/24/2015	Arranging service	1	\$25.00
4/27/2015	Service of summons and complaint	0.25	\$6.25
5/19/2015	Reading answer, filing	0.5	\$12.50
6/18/2015	Scheduling order dates	0.5	\$12.50
7/7/2015	Scheduling conference and first discovery requests	5	\$125.00
7/27/2015	preparing motion to compel disclosures	3	\$75.00
7/28/2015	preparing motion to compel disclosures	2	\$50.00
7/29/2015	preparing and filing motion to compel disclosures	1	\$25.00
8/10/2015	preparing motion for summary judgment	2	\$50.00
8/11/2015	preparing motion for summary judgment	4	\$100.00
8/13/2015	preparing motion for summary judgment	1	\$25.00
8/12/2015	Preparing motion for summary judgment	1	\$25.00
8/16/2015	Preparing motion for summary judgment	0.5	\$12.50
	Total hours spent	28	
	Total Cost at \$25 per hour		<b>\$700.00</b>

**CERTIFICATE OF SERVICE**

I certify that on this 17<sup>th</sup> day of August, 2015, a true and correct copy of the foregoing Plaintiff's Notice of Motion for Summary Judgment, with memorandum and exhibits, is served by electronic mail on Arthur Sanders, counsel for the defense, at the following e-mail addresses: asanders@arthursanderslaw.com and asanders@bn-lawyers.com.

  
Jonathan Paul Catlin  
Plaintiff *Pro Se*  
Post Office Box 621  
Naples, New York 14512  
Cell: (208) 627-3950  
Email: myfriendstenthousand@gmail.com



Clerk, us District Court  
220 United States Courthouse  
100 State Street  
Rochester, NY 14614